

Appl. No. : 09/770562 Confirmation No. : 8513
Applicant : Bend Research, Inc. TC/A.U. : 1618
Filed : January 26, 2001 Examiner : FUBARA,
Customer No. : Docket No. : DES/0003.0562
Title : SOLID PHARMACEUTICAL DISPERSIONS WITH ENHANCED
BIOAVAILABILITY

601 SW Second Avenue
Suite 1600
Portland, OR 97204-3157

December 18, 2009

Mail Stop Appeal Brief -- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESUBMISSION OF PAGE 2 OF APPEAL BRIEF

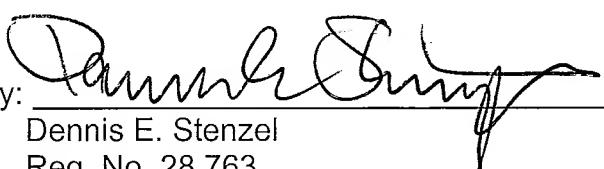
Dear Sir:

In response to the Notification of Non-Compliant Appeal Brief dated December 11, 2009, there is submitted herewith a revised page 2 of the previously filed Appeal Brief dated November 29, 2009.

Respectfully submitted,

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Status of Claims

Claims 2-3, 5-22, 24-27, 39-48 and 52 have been cancelled and claims 28-35 and 38 have been withdrawn. Claims 1, 4, 23, 36-37, 49-51 and 53-56 are pending and their rejection is appealed; a copy of the claims on appeal is set forth in the Claims Appendix.

Status of Amendments

All amendments have been entered.

Summary of Claimed Subject Matter

Claim 1, the only independent claim in the application, is directed to a composition of matter comprising a spray-dried dispersion, the dispersion consisting of a low-solubility drug and the polymer hydroxypropyl methylcellulose acetate succinate (HPMCAS). Published US Application 2002.009494A1 ('494), paragraphs [0012], [0085] and [0086]. The drug is molecularly dispersed and amorphous in the dispersion. '494 paragraph [0027]. The dispersion has a drug:polymer ratio between 1:04 and 1:20. '494 paragraph [0049].

Grounds of Rejection to be Reviewed on Appeal

There are five issues on appeal:

1. whether claims 1, 4, 49-51 and 53-56 are anticipated under §102(b) by

Miyajima EP 0 344 603;